

SUHRP Program Regulations

§7450. Scope and Authority.

These regulations set forth policies governing the implementation, management and use of the Special User Housing Rehabilitation Program. They establish procedures to provide deferred payment loans from the Housing Rehabilitation Loan Fund for the rehabilitation or acquisition and rehabilitation of rental housing developments for occupancy of eligible households of low or very low income.

§7452. Definitions.

“Affordable rent” shall mean affordable rents for low and very low income households as defined in Section 6922.

“Deferred payment loan” means a loan for rehabilitation or acquisition and rehabilitation of rental housing developments made from the Housing Rehabilitation Loan Fund.

“Department” means the California Department of Housing and Community Development.

“Director” means the Director of the California Department of Housing and Community Development.

“Elderly” means a single person or a household as defined in Section 50067 of the Health and Safety Code.

“Eligible household,” for purposes of this subchapter means persons of low or very low income, when pertaining to residential hotels; and elderly and handicapped persons of low or very low income, when pertaining to other rental housing developments.

“Fair Rate of Return” means an annual amount of return on investment no greater than 8 percent of the sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development.

“Fund” means the Housing Rehabilitation Loan Fund.

“Gross Income” means the income of a person or family as defined in Section 6914.

“Handicapped” means a family in which the head of household is suffering from an orthopedic disability impairing personal mobility or a physical disability affecting his or her ability to obtain employment or a single person with such a physical disability, where the family or person requires special care or facilities in the home. “Handicapped” also includes a family in which the head of household suffers from a developmental disability specified in Welfare and Institutions Code Section 4512(a) or a mental disorder which would render him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, or a single person with such a developmental disability or mental disorder.

“Head of Household” means an individual who actually supports and maintains in one household one or more individuals who are closely connected with him or by her by blood relationship, relationship by marriage, or by adoption, and whose right to exercise family control and provide for the dependent individuals is based upon some moral or legal obligation.

“Loan Committee” means the Rehabilitation and Housing Assistance Loan and Grant Committee established pursuant to Section 6902(d).

“Low income” means the income limit established by Section 6298.

“Net income” means the income of a person or family as defined in Section 6916.

“Non-profit corporation” means a corporation organized and incorporated pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code or subject to said Part pursuant to Section 5003 of the Corporations Code.

“Regulatory agreement” means that document or documents entered into between the sponsor and the Department which governs the rights and obligations of the department, sponsor and existing prospective tenants of the rental housing development, and contains other provisions necessary to carry out the purposes of this program.

“Rehabilitation” means repairs and improvements to a substantial residential property or structure necessary to meet applicable building and housing codes and unit/room composition changes permitted pursuant to this subchapter. “Rehabilitation” shall also include retrofitting for accessibility and use by the elderly and handicapped.

“Rent” means the total of monthly payments for occupying a unit in a rental housing development, as defined in Section 6918.

“Rental housing development” means a rental structure or structures containing five or more rental dwelling units, provided each unit is equipped with a kitchen and bathroom. It also shall mean: (1) a structure or structures where five or more handicapped individuals reside in a group living arrangement; and (2) a residential hotel.

“Residential hotel” means any building containing six or more rooms intended or designed to be used for, or which are occupied for, sleeping purposes by tenants, which is also the primary residence of these tenants, provided that a majority of these rooms are residential hotel units.

“Residential hotel unit” means a room in a residential hotel used or intended or designed to be used as a primary residence, which is subject to the provisions of Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code, but which lacks either or both a self-contained kitchen or bathroom.

“Rural area” means an area meeting the requirements of Section 50101 of the Health and Safety Code.

“Sponsor” means an entity meeting the requirements of Section 50069(c) of the Health and Safety Code.

“Substandard rental housing development” means a structure or structures used or intended to be used as a rental housing development which does not meet applicable local or State building or housing standards adopted pursuant to the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code and specifically Section 17958.8

“Very low income” means the income limit established by Section 6926.

§7454. Eligible Use of Funds.

The Department shall provide direct deferred payment loans from the Fund to eligible sponsors to be used for the following purposes:

- (a) to rehabilitate a substandard rental housing development for occupancy by eligible households without the use of rental assistance subsidies; or
- (b) to purchase and rehabilitate a substandard rental housing development for occupancy by eligible households without the use of rental assistance subsidies.

§7456. Authorized Expenses.

(a) Loans from the Fund may be used for costs including, but not limited to, the following authorized expenses:

- (1) All or a portion of the costs of purchasing rental housing developments;
- (2) All or a portion of the costs of rehabilitating and otherwise upgrading the rental housing development to conform with applicable building or housing codes and to improve habitability and maintenance of the property, except:
 - (A) Purchase, installation, or repair of furnishings other than essential appliances;
 - (B) Materials, fixtures, or equipment of a type or quality which exceeds that customarily used for properties of the same general type to be rehabilitated.
 - (C) Administrative and overhead costs, except as provided in subparagraph (a)(13).
- (3) The cost of room additions or enlargements, if the sponsor can document the need to eliminate overcrowding or unhealthy conditions.
- (4) Costs of improvements related to making a unit accessible to and useable by the elderly or handicapped.

(5) The cost of architectural, engineering, and other professional services for the development of the project, including but not limited to the preparation of plans, drawings, and specifications for the rehabilitation of the property.

(6) The cost of building permits and related fees required for the rehabilitation.

(7) The cost of title reports, title insurance, appraisals and fees for recording documents related to the loan.

(8) The cost of repair and installation of energy conservation systems and weatherization when done in conjunction with other rehabilitation work.

(9) The cost of security and fire protection devices.

(10) Costs relating to displacement and temporary or permanent relocation of existing tenants of the rental housing development.

(11) Costs required by the Department related to review and approval of the loan.

(12) The cost of legal fees.

(13) The cost of a non-profit sponsor's overhead and administration directly related to program implementation may be included in a loan, provided the sponsor can demonstrate that such costs are necessary for the non-profit corporation to implement the project. Such costs shall not exceed 5 percent of the total loan amount, or \$20,000, whichever is less.

(b) In buildings with mixed residential and commercial uses, loans from the Fund may be used for the cost of all items specified in subdivision (a) associated exclusively with the residential use. They may also be used for a share of the cost of such items that cannot specifically be allocated to either the residential or commercial uses; this share shall not exceed an amount in direct proportion to the ratio between the gross floor area of the residential use and the total gross floor area of the buildings. No loans from the Fund may be used for costs associated exclusively with commercial uses or with common elements, such as exterior facades, that are improved primarily for the benefit of the commercial use.

(c) No loans from the Fund may be used to refinance existing permanent financing.

§7458. Eligibility of Sponsors.

(a) At the time of application for assistance, the sponsor shall provide evidence to the Department that it has or will have the capability to rehabilitate, own and/or manage the rental housing development. In determining the capability of a sponsor, the Department shall consider the extent to which the sponsor is or will be:

(1) administratively and financially capable, as evidenced by a current financial statement and previous experience of the sponsor or persons affiliated with the sponsor in developing, owning, managing or rehabilitating private or publicly-assisted housing developments; and

(2) capable of proceeding promptly to implement a program to acquire and rehabilitate, or rehabilitate and manage a rental housing development for eligible households in accordance with this subchapter.

(b) If the sponsor is a local public entity (including a city; county and county; housing authority; redevelopment agency; community development commission; or any other local agency established by, or whose members are the same as, or appointed by, the legislative body of a city, county, or city and county), as a condition of eligibility to apply for funds pursuant to this subchapter, the city, county, or city and county with jurisdiction over the proposed project shall have submitted a housing element which is in accordance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code to the Department. However, no application for funds shall be denied because of the content of the housing element or because of the findings made by the Department pursuant to Section 65585 of the Government code.

§7460. Loan Limits, Rates and Terms.

The following loan limits, rates and terms shall apply to all loans made pursuant to this subchapter.

(a) Loan Limits:

(1)

		<i>Small Unit</i>	<i>Large Unit</i>
	<i>Residential</i>	<i>(less than</i>	<i>(3 bedrooms</i>
	<i>Hotel Unit</i>	<i>3 bedrooms)</i>	<i>or more)</i>
<i>Rehabilitation</i>	\$15,000	\$25,000	\$35,000
<i>Acquisition/Rehabilitation</i>	\$25,000	\$35,000	\$45,000

For rehabilitation of a single-family dwelling the loan limit is \$45,000 for a project of up to three bedrooms, plus \$10,000 for each additional bedroom beyond three bedrooms. For acquisition/rehabilitation of a single-family dwelling, the loan limit is \$160,000 for a project of up to three bedrooms, plus \$40,000 for each additional bedroom beyond three bedrooms.

(2) Exceptions to these limits may be approved by the Director if warranted by the presence of extraordinary conditions, such as high prevailing costs of acquiring rental housing developments in certain localities or the need for extensive structural rehabilitation work required by the state or local building and safety codes.

(3) The maximum deferred payment loan plus other indebtedness against the property shall not exceed 90 percent of the sum of the fair market value of the rental housing development prior to rehabilitation or acquisition and rehabilitation plus the anticipated cost of the rehabilitation work to be undertaken. A nonprofit or local public entity sponsor may receive a 100 percent loan if it demonstrates the need for full financing.

(b) Loan Rates:

(1) Loans shall bear simple interest at the rate of 3 percent per annum on the original principal balance disbursed, to be paid annually. However, the Department may reduce or eliminate interest payments on a loan for any year, or alternatively defer interest payments until the deferred payment loan is due, if the Department determines that payment of interest will threaten the provision of affordable rents or the fiscal integrity of the rental housing development.

(2) Principal and any approved deferred interest payments shall be deferred and paid in a single payment at the expiration of the term of the loan or pursuant to section 7472.

(c) Term: Loans shall have a term of the lesser of 30 years or the useful life of the housing development, as determined by an appraisal of the property accepted by the Department.

§7462. Regulatory Agreement.

Before any funds may be disbursed from the Fund, the Department shall enter into a Regulatory Agreement with sponsors, which shall include, but not be limited to:

(a) standards for tenant selection to ensure occupancy by eligible households;

(b) a rent schedule established by the Department at levels affordable to low income households to the extent consistent with the financial integrity of the rental housing development;

(c) conditions and procedures for permitting rent increases;

- (d) limitations on profits allowed for-profit and limited-profit sponsors to a fair rate of return. No return shall be allowed non-profit and public entity sponsors;
- (e) assurances that the sponsor will maintain the rental housing development in a safe and sanitary condition in compliance with state and local housing codes;
- (f) conditions and a schedule for reporting to the Department by the sponsor;
- (g) conditions relating to Departmental review and inspections;
- (h) a schedule for project implementation, including a timetable for ownership of the rental housing development, commencement of rehabilitation work, and occupancy of the project by eligible households;
- (i) conditions relating to completion of rehabilitation work, fund disbursements, and reporting of progress;
- (j) provisions relating to the term and amount of the loan, repayment to the Fund, payment of interest, assumptions of the loan, refinancing and sale of the rental housing development;
- (k) terms and conditions with respect to default, late repayment and collection of loans;
- (l) terms and conditions relating to breach of the regulatory agreement and remedies therefore;
- (m) provisions regulating the terms of the occupancy agreement between the sponsor and tenants of the rental housing development, including terms requiring good cause for any eviction, the establishment of a grievance procedure for hearing complaints of tenants and providing for notice to tenants of proposed rent increases;
- (n) provisions ensuring that the relocation requirements of Section 50670(g) of the Health and Safety Code will be adhered to;
- (o) provisions requiring the approval of the Department for all general contracts for approved rehabilitation work; such contracts shall include provisions which require, pursuant to state or federal law, the use of affirmative action in hiring by contractors and subcontractors;
- (p) provisions limiting encumbrances against the rental housing development without prior Department approval;
- (q) provisions relating to a replacement reserve;
- (r) provisions relating to requirements for proper management of the rental housing development, including approval by the Department for any management contract or master lease; and
- (s) other provisions necessary to assure compliance with the intent of the program.

§7464. Loan Closing, Security, and Disbursements.

(a) Before the Department may disburse funds to any sponsor, the approved loan shall be closed by execution of the following agreements and documents, which will have been prepared by the Department or at its direction:

- (1) a regulatory agreement;
- (2) a promissory note;
- (3) security instrument(s); and
- (4) other agreements and documents required by the Department.

(b) The sponsor must demonstrate that sufficient security may be given to secure both the amount of the loan and the obligations and restrictions of the regulatory agreement. A deed of trust in a form approved by the Department shall be executed in favor of the Department. Upon execution by the sponsor and Department, the deed of trust and regulatory agreement, which shall constitute an enforceable lien on the rental housing development, shall be recorded in the office of the county recorder of the county in which the rental housing development to which they relate is located.

(c) Loan Disbursements. Program loan funds will be disbursed to, or on the behalf of, the sponsor as the need for funds arises. Sponsors must request disbursements of loan funds on forms approved by the Department at least 20 days before receipt is required. Disbursement requests must be supported with evidence of an obligation. The Department may contract for services related to the disbursement of loan funds to sponsors.

(d) The sponsor shall obtain ownership of the rental housing development within six months of loan approval. No funds shall be disbursed for rehabilitation work until the sponsor owns the rental housing development.

§7466. Tenancy Standards and Procedures.

Procedures for tenant selection, rents, and eviction for tenants of residential housing developments shall be governed by the regulatory agreement which shall include, but not be limited to, the following terms:

- (a) Sponsors shall select only eligible households as tenants.
- (b) Sponsors shall give first priority subsequent to rehabilitation to eligible households displaced as a result of rehabilitation assisted by the Program.
- (c) Sponsors shall not unlawfully discriminate or permit unlawful discrimination in the selection or treatment of tenants, and shall abide by all local, State, and Federal laws and regulations prohibiting such discrimination.

(d) The Department shall establish a schedule of affordable rents to low and very low income tenants of the rental housing development, to the extent consistent with the financial integrity of such development. Rents may be periodically increased after sponsors submit a written request to the Department which demonstrates that such increases are necessary to defray operating costs and to avoid jeopardizing the financial integrity of the housing development. Rents may be increased only upon Department approval of the request. In the event that the Department does not act on a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved.

(e) The sponsor shall use a lease for occupancy on a form approved by the Department. Included in the lease shall be a requirement that tenants shall promptly report to sponsors any increase in income. Sponsors shall annually redetermine tenants' income eligibility on a form approved by the Department. If a tenant's net income exceeds the upper limit for low income households, the tenant shall be required to vacate the assisted unit within six months from the date of income redetermination or notice to the sponsor of an increase in income over the permissible income level.

(f) The sponsor and tenants shall comply promptly and fairly with the responsibilities under law and as set forth in the lease.

§7470. Departmental Review of Rehabilitation and Operations.

(a) The Department shall issue administrative standards governing inspection, preparation of rehabilitation specifications, bidding, awards to contractors, disbursement of funds to contractors or others, and monitoring procedures during the process of rehabilitation.

(b) At any time during the acquisition, rehabilitation, and the term of the loan, the Department may initiate a review or a financial or physical audit of any and all phases of the sponsor's activities under the Program. The sponsor shall promptly provide any requested documentation related to such activities.

(c) The sponsor shall submit a certified report annually to the Department in a form approved by the Department. The report shall contain such information as the Department may require, including but not limited to:

(1) Certification by the sponsor as to the financial condition of the rental housing development, as evidenced by a financial statement including a balance sheet and profit and loss statement indicating surplus or deficits in operating accounts and the amounts of any fiscal reserves;

(2) Certification of any substantial physical defects in the rental housing development, including a description of any notice or citation for violations of local housing codes or any major repair or maintenance work undertaken or needed in the reporting year;

(3) the occupancy of the rental housing development indicating:

(A) for rental housing developments other than residential hotels, the number of elderly, handicapped or elderly and handicapped households currently residing in the rental housing development;

(B) the incomes of current residents;

(C) current rents charged residents and what utilities, if any, are included in the rents.

(4) general management performance, including occupancy rates, management problems, tenant relations, and other relevant information;

(5) other information deemed necessary by the Department to monitor compliance with the regulatory agreement.

(d) At the Department's request, the sponsor shall provide, at its own expense, an audit of the financial condition of the rental housing development certified by a Certified Public Accountant or other person designated by the Department.

(e) Any person may request the Department to review any phase of implementation or operation of the sponsor's program. Grievances may relate to, but not be limited to, eligibility, terms of tenancy, or authorized expenditures. Review undertaken by the Department under this section may be informal or, at the Department's discretion, may follow the procedures outlined in Government Code, Sections 1180 et seq. Failure to petition the Department shall not limit a complainant's right to seek judicial review, nor shall such review replace a complainant's right to seek de novo judicial review.

§7472. Defaults, Transfers and Loan Cancellation.

(a) In the event a sponsor should default on any of its debts to a lender or creditor whose loan is secured in any manner by the subject property, and the lender or secured creditor should proceed to force a sale of the subject property after a foreclosure procedure, or in the event a judgment has been taken against the property owner and the judgment creditor should proceed to force a sale of the subject property in satisfaction of its claim, the Department by this fact approves the sale.

(b) No sponsor shall sell, encumber or convey the rental housing development without express, prior written approval of the sale by the Department. Approval of a sale or conveyance shall be given, provided:

(1) the successor-in-interest to the grantor agrees to assume the deferred payment loan and all obligations of the existing sponsor pursuant to the regulatory agreement and this program; and

(2) the successor in interest is an eligible sponsor and demonstrates to the Department's satisfaction that it can successfully own and operate the rental housing development.

(c) In addition, the Department may permit a sale and termination of the regulatory agreement and all other obligations pursuant to this subchapter only if:

- (1) all sums owed to the Department by the sponsor are paid; and
- (2) Such an action is necessary to protect the interests and security of the state.

(d) In the event a sponsor or successor-in-interest defaults on any material provision of the deed of trust or regulatory agreement, the Department shall provide the sponsor with a written notice of breach or default and seek and encourage correction or compliance. If substantial progress is not made in rectification within 30 days of such notice, the Department may, at its discretion, declare the note evidencing the loan to be due and payable. In addition, the Department may seek any other remedy available in law or equity.

(e) In the event of foreclosure, default, or forced sale, the purchaser shall take title subject to the conditions of the regulatory agreement for the remaining duration of the original loan term.

(f) Unexpended loans to sponsors may be cancelled by the Department if the objectives of the loan cannot be met, implementation cannot proceed according to the sponsor's plans and schedule, special conditions have not been fulfilled within required periods, control/ownership of the rental housing development has not been obtained within six months, or rehabilitation has not commenced within twelve months of the date of loan approval. Upon receipt of a notice of intention to cancel the loan from the Department, the sponsor shall have a right to a hearing before the Loan Committee within thirty days; the Committee shall make a recommendation to the Director, who shall issue a written decision within ten working days of the hearing.

§7474. Application Process.

(a) Applications for Special User Housing Rehabilitation Program deferred loan funds shall be made on forms supplied by the Department and in accordance with request for proposal guidelines and instructions to be issued by the Department. Information required shall include, but not be limited to, the following:

- (1) evidence of sponsor eligibility of the applicant pursuant to the provisions of Section 7458;
- (2) a detailed plan of the proposed project, including:
 - (A) the amount of loan funds requested;
 - (B) a description of the nature and costs of rehabilitation or acquisition and rehabilitation to be undertaken;
 - (C) a plan for ownership, management, and occupancy of the development;
 - (D) a financial analysis of the project, indicating anticipated expenses and revenues;

(E) a description of the existing liens and loans on or secured by the property;

(F) an analysis of existing and projected rent levels, including a determination as to whether projected rents will be affordable to very low income households;

(G) an indication of any temporary or permanent displacement and relocation of current residents which may be necessary, and costs of such activities; and

(H) a schedule for implementation.

(b) After receipt of an application, the Department shall provide notice to the local governing body of the community in which the assisted rental housing development will be located to provide an opportunity for comment by that community.

(c) Applications for loans will be reviewed by the staff of the Department to determine project eligibility and economic feasibility. The Department may require that an independent appraisal, at the sponsor's expense, be made of the value and cost of rehabilitation of the property and shall inspect the proposed rental housing development to ensure the economic feasibility of rehabilitating the property.

(d) Applications which involve acquisition of a rental housing development shall include a copy of an agreement or option between the sponsor and seller of the rental housing development which specifies all terms of the prospective sales transaction.

(e) On the basis of its review of the applications, Department staff will prepare recommendations, and submit such recommendations to the Loan Committee for its review and recommendation within 90 days after the application is deemed complete.

§7476. Loan Committee Review and Action.

(a) The Loan Committee shall review all applications for Special User Housing Rehabilitation Program deferred loans, except emergency loans, and all other significant matters affecting rental housing developments assisted by the Program including, but not limited to, reductions or elimination of annual interest payments. It shall adopt operating policies and procedures for the Program, and shall perform other functions and duties as may be required by the Director or by law.

(b) The Loan Committee shall be constituted and shall operate as set forth in Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of Part 1 of Title 25, California Administrative Code.

(c) In taking action on applications or other matters, the Loan Committee shall consider the application or request, any written or oral testimony of an applicant or other interested person, priorities or loan distribution policies pursuant to Section 7478, recommendations of Program staff, and any other relevant information.

(d) Approval, approval with conditions, or denial of any action by the Loan Committee shall constitute a recommendation to the Director, who shall consider the Committee's recommendation in approving or denying a loan or any other matter.

(e) The Director shall, within 15 days after the date on which the loan committee considers any request for action, inform the applicant in writing of its decision, stating:

(1) that it has approved, approved with conditions, denied, or continued consideration of the request or application;

(2) the basis for denial or postponement of consideration; and

(3) that the applicant has a right of appeal as specified in Section 7580.

(f) The Director shall specify in any decision regarding approval of an application:

(1) the amount and terms of the deferred payment loan to be provided to the applicant or the terms of any other decision; and

(2) conditions attached to the approval of the loan or other request.

§7478. Funding Priorities and Loan Distribution Policies.

(a) Priorities for allocation of Special User Housing Rehabilitation Program funds shall be given to applications which:

(1) address a major unmet local housing need, as evidenced by indicators such as low vacancy rates and high market rents in comparable unsubsidized developments and long waiting lists for comparable subsidized developments, and as evidenced by specific provisions in a local public entity's adopted Housing Element, Housing Assistance Plan or Redevelopment Plan which identifies needs and implementation strategies directly related to the type of project for which the application was submitted;

(2) prevent or minimize permanent displacement of existing residents;

(3) show evidence of local support in the form of financial assistance or assistance in the rehabilitation process;

(4) demonstrate superior ability to manage the development after rehabilitation, as evidenced by relevant factors such as experience managing comparable developments, qualifications of the management team, and the quality of the sponsor's plans for management;

(5) involve projects located on sites appropriate to the needs of prospective residents;

(6) maximize long-term benefit for very low income households;

(7) demonstrate superior ability to acquire and rehabilitate the project, as demonstrated by relevant factors such as previous development experience, general qualifications of the development team, and financial stability;

(8) correct major health and safety code violations rather than make only general property improvements;

(9) use Program funds in a cost-effective manner, as measured by such relevant indicators of cost-effectiveness as the per-unit allocation of Program funds and the ratio of Program funds to other funds used on the project;

(10) provide for after-rehabilitation rents below the local market average; and

(11) meet other priorities that may be established administratively by the Department.

(b) At least twenty percent of the total value of loans provided from the Fund to the Special User Housing Rehabilitation Program shall be for rental housing developments located in rural areas.

(c) At least twenty-five percent of the total value of loans provided from the Fund to the Program for rental housing developments other than residential hotels shall benefit handicapped households.

§7480. Appeals Procedure.

Appeals shall be governed by the procedures set forth in Section 6906. Subchapter 1, Chapter 6.5, Part 1. Title 25, California Administrative Code.